

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3232 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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G S R T C

Versus

S T KARMACHARI MANDAL STAFF ASSN.

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Appearance:

MR HARDIK C RAWAL for Petitioner

NOTICE SERVED for Respondent No. 1, 2

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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 01/10/1999

ORAL JUDGEMENT

Learned advocate Mr. H.C. Raval is appearing for the petitioner corporation. The respondent workman was served with the notice of rule. However, he has not appeared before this Court either in person or through any advocate.

2. The facts of the present case, in short, are that

the respondent workman was working with the petitioner corporation as Traffic Controller at Chandola Depot and that because of the loss of one parcel which was required to be sent from Ahmedabad to Dahod, the respondent workman was chargesheeted on 14.4.1981 and after completion of the departmental inquiry, the competent authority passed an order on 17.2.1982 for recovery of an amount of Rs. 2,259.98 ps. by 40 installments. The respondent workman had filed departmental appeal and in that appeal, said amount was ordered to be reduced by the first appellate authority under its order dated 22nd July, 1982 and it was reduced to Rs. 1695.00. Thereafter, again in second appeal, by order dated 17.2.83, said amount was reduced to Rs. 847.50 ps. Said order of punishment for recovery of Rs. 847.50 was challenged by the respondent through union in reference No. 948/84 before the Industrial Tribunal, Ahmedabad. The Tribunal, after considering the facts and circumstances of the case, observed in its judgment and order that initially, the respondent workman had made written complaint to the corporation stating about six parcels to be dispatched to various centres were not traceable. Said complaint was made on 12.5.1980 which includes the parcel in question which was required to be transported to Dahod. In the departmental inquiry, the respondent workman had stated that he had made oral complaint prior to his written complaint that there was heavy load of parcel and he had shown intention to make personal search when the work become light and the charge sheet was served to him on 14.4.1981 after completion of one year from the date of incident. In the departmental inquiry, no evidence was brought by the authority to prove the charge levelled against him; there was no evidence as to what was the value of the parcel which has been lost. Considering all these circumstances of the case, the tribunal set aside the impugned order of recovery from the respondent under its judgment and order dated 16.12.1988. Said judgment and award passed by the tribunal has been challenged by the petitioner corporation by filing this petition before this Court under Article 226/227 of the Constitution of India.

This Court, while admitting this petition, has not granted any interim relief.

I have heard the learned advocate Shri Raval for the petitioner Corporation.

Mr. Raval has submitted that in view of the smallness of the amount which was sought to be recovered from the respondent workman under the order of

punishment, the tribunal ought not to have interfered because the parcel had lost and two departmental authorities had reduced the amount.

I have considered the submissions made by Mr. Raval. I have also gone through the impugned judgment and award. The tribunal has come to the conclusion that in the departmental inquiry, there was no any evidence produced by the petitioner corporation to prove the charge against the respondent workman. In absence of any evidence against the workman, the tribunal was of the view that the punishment cannot be imposed. I am of the view that the view taken by the tribunal is just and proper requiring no interference of this Court while exercising the powers under Article 226 and/or 227 of the Constitution of India. Mr. Raval has not been able to point out any infirmity in the impugned judgment and award of the tribunal. Therefore, the petition fails and the same is accordingly dismissed. Rule is discharged. There shall be no order as to costs.

1.10.1999. (H.K.Rathod,J.)

Vyas